

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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 RICHARD ABONDOLO, as Chairman of the :  
 Board of Trustees of UFCW LOCAL 50 :  
 WELFARE TRUST FUND; RICHARD :  
 ABONDOLO, as Chairman of the Board of :  
 Trustees of UFCW LOCAL 50 PENSION TRUST :  
 FUND; RICHARD ABONDOLO, as Chairman of :  
 the Board of Trustees of UFCW LOCAL 342 :  
 HEALTH CARE FUND; RICHARD ABONDOLO, :  
 as Chairman of the Board of Trustees of UFCW :  
 LOCAL 342 ANNUITY FUND; RICHARD :  
 ABONDOLO, as Chairman of the Board of :  
 Trustees of UFCW INTERNATIONAL UNION :  
 AND INDUSTRY PENSION FUND; RICHARD :  
 ABONDOLO, as Chairman of the Board of :  
 Trustees of UFCW LOCAL 50 SEVERANCE :  
 FUND; RICHARD ABONDOLO, as Chairman of :  
 the Board of Trustees of UFCW LOCAL 342 :  
 SAFETY-EDUCATION-CULTURAL FUND; and :  
 RICHARD ABONDOLO, as Chairman of the :  
 Board of Trustees of UFCW LOCAL 342 LEGAL :  
 FUND, :  
 :  
 Plaintiffs, :  
 :  
 -against- :  
 :  
 SIEGMUND STRAUSS, INC., :  
 :  
 Defendant. :  
 \_\_\_\_\_ X

Case No. 07-cv-4850 (AKH)  
 ECF CASE

**AFFIDAVIT OF GEORGE  
 LEVENTIS IN SUPPORT OF  
 ORDER TO SHOW CAUSE**

I, George Leventis, being duly sworn according law, depose and say:


1. I am the Fund Auditor for the UFCW 342 Affiliated Trust Funds, which includes the Plaintiffs, RICHARD ABONDOLO, as Chairman of the Board of Trustees of UFCW LOCAL 50 WELFARE TRUST FUND; RICHARD ABONDOLO, as Chairman of the Board of Trustees of UFCW LOCAL 50 PENSION TRUST FUND; RICHARD ABONDOLO, as Chairman of the Board of Trustees of UFCW LOCAL 342 HEALTH

CARE FUND; RICHARD ABONDOLO, as Chairman of the Board of Trustees of UFCW LOCAL 342 ANNUITY FUND; RICHARD ABONDOLO, as Chairman of the Board of Trustees of UFCW INTERNATIONAL UNION AND INDUSTRY PENSION FUND; RICHARD ABONDOLO, as Chairman of the Board of Trustees of UFCW LOCAL 50 SEVERANCE FUND; RICHARD ABONDOLO, as Chairman of the Board of Trustees of UFCW LOCAL 342 SAFETY-EDUCATION-CULTURAL FUND; and RICHARD ABONDOLO, as Chairman of the Board of Trustees of UFCW LOCAL 342 LEGAL FUND (collectively hereinafter referred to as the "Funds"). As such, I am fully familiar with the facts and circumstances of the within matter.

2. I make this Affidavit in support of Plaintiffs' Order to Show Cause compelling Defendant, Siegmund Strauss, Inc., to allow the Funds to conduct an audit of Defendants' payroll and financial records from June 2001 through the present.
3. After discovering that there were several employees of Siegmund Strauss, Inc. that the company failed to report to the Union and the Fund Office, I requested the company to give us access to its books and records in order for the Fund office to conduct an audit as prescribed by the Collective Bargaining Agreement.
4. In particular, on May 21, 2007; May 24, 2007; May 25, 2007; May 29, 2007; and May 30, 2007, I contacted Stanley Mayer, President of Siegmund Strauss, Inc., requesting him to allow the Funds to conduct an audit of Siegmund Strauss' records.
5. Each time I spoke with him, he asked me call him back to schedule the audit; however, on May 30, 2007, he stated that he would not give the Funds access to the records.
6. The Funds cannot independently verify the accuracy of Defendants' contribution payments without first conducting an audit.

7. The Defendant is under a contractual obligation pursuant to a Collective Bargaining Agreement for the period of November 1, 1996 through October 31, 2000 ("1996-2000 CBA"), a Memorandum of Agreement for the period of November 1, 2000 through October 31, 2004 ("2000-2004 MOA"), and a Collective Bargaining Agreement for the period of November 1, 2004 through October 31, 2008 ("2004-2008 CBA"), which were signed and agreed upon by the Plaintiffs and the Defendant, to permit the Funds to conduct a payroll audit. See 1996-2000 CBA, 2000-2004 MOA, and 2004-2008 CBA, copies of which are attached to the Affirmation of Andrew John Calcagno, Esq. as Exhibits A,B, and C, respectively, and made a part hereof by reference.
8. In failing to voluntarily submit to an audit, the Defendant is willfully breaching its agreements and contractual duties under the 1996-2000 CBA, the 2000-2004 MOA, and the 2004-2008 CBA.
9. As a result of the Defendant's recalcitrance, it is causing irreparable harm to the Funds.
10. Based upon the foregoing, it is respectfully requested that this Court grant Plaintiffs' Order to Show Cause in its entirety.

Dated: New York, New York  
June 5, 2007

  
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GEORGE LEVENTIS, FUNDS AUDITOR

Sworn and subscribed to before

me this 6<sup>th</sup> day of June, 2007

  
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NOTARY PUBLIC

ANDREW J. CALCAGNO  
NOTARY PUBLIC STATE OF NEW YORK  
NEW YORK COUNTY  
LIC. #02CA4985449  
COMM. EXPIRES 08/19/2009